

Article - Natural Resources

[\[Previous\]](#)[\[Next\]](#)

§5-1607.

(a) The preferred sequence for afforestation and reforestation shall be established by the State or local authority in accordance with the following after all techniques for retaining existing forest cover on-site have been exhausted:

(1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;

(3) (i) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists, or where:

1. Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and

2. The applicant has justified to the satisfaction of the State or local jurisdiction that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting;

(ii) In these cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section; and

(iii) Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the State or local forest conservation program which is approved by the Department; and

(4) The State or local jurisdiction may allow an alternative sequence for a specific project if necessary to achieve the objectives of a local jurisdiction's land use plans or policies or to take advantage of opportunities to consolidate forest conservation efforts.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(1) Forest creation in accordance with a forest conservation plan using one or more of the following:

(i) Transplanted or nursery stock;

(ii) Whip and seedling stock; or

(iii) Natural regeneration where it can be shown to adequately meet the objective of the forest conservation plan.

(2) The use of street trees in a municipal corporation with a tree management plan, in an existing population center designated in a county master plan that has been adopted to conform with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Department as part of a local program, under criteria established by the local program, subject to the approval of the Department, using:

(i) Street trees as a permissible step in the priority sequence for afforestation or reforestation and, based on a mature canopy coverage, may grant full credit as a mitigation technique; and

(ii) Acquisition as a mitigation technique of an off-site protective easement for existing forested areas not currently protected in perpetuity, in which case the afforestation or reforestation credit granted may not exceed 50% of the area of forest cover protected.

(3) When all other options, both on-site and off-site, have been exhausted, landscaping as a mitigation technique, conducted under an approved landscaping plan that establishes a forest at least 35 feet wide and covering at least 2,500 square feet of area.

(c) (1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

(i) Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes, and critical habitats; and

(ii) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under § 5-1611 of this subtitle:

(i) Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;

(ii) Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and

(iii) Trees having a diameter measured at 4.5 feet above the ground of:

1. 30 inches; or

2. 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

(d) The following shall be considered priority for afforestation or reforestation:

(1) Establish or enhance forest buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least 50 feet;

(2) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;

(3) Establish or enhance forest buffers adjacent to critical habitats where appropriate;

(4) Establish or enhance forested areas in 100-year floodplains;

(5) Establish plantings to stabilize slopes of 25% or greater and slopes of 15% or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;

(6) Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way;

(7) Establish forest areas adjacent to existing forests so as to increase the overall area of contiguous forest cover, when appropriate; and

(8) Use native plant materials for afforestation or reforestation, when appropriate.

(e) (1) As part of the development of a forest conservation program, the State or local government shall develop provisions for:

(i) Preservation of areas described in subsections (c) and (d)(1) and (3) of this section;

(ii) Retention as forest of all land forested, afforested, or reforested under this subtitle; and

(iii) Limitation of uses of forest to those that are not inconsistent with forest conservation, such as recreational activities and forest management under subsection (f) of this section.

(2) The provisions required in paragraph (1) of this subsection may include protective agreements for areas of forest conservation, including conservation easements, deed restrictions, and covenants.

(f) An owner may place land that is forested, afforested, or reforested under this subtitle in the forest conservation and management program under § 8–211 et seq. of the Tax – Property Article or in a forest management plan prepared by a licensed forester and approved by the local authority or the State. Reforestation shall be required when the final regeneration harvest is complete or if determined to be necessary due to the lack of adequate natural regeneration.

[\[Previous\]](#)[\[Next\]](#)